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2002 DEC 23 A 9:28  
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Illinois Commerce Commission )  
On its Own Motion )  
Amendment of 83 Ill. Adm. Code 758 ) ICC Docket No. 02-0689

**JOINT MOTION FOR GENERAL CONTINUANCE**

AT&T Communications of Illinois, Inc. ("AT&T"), Gallatin River Communications L.L.C. ("Gallatin River"), Illinois Independent Telephone Association ("IITA"), Illinois Telecommunications Association ("ITA"), Southwestern Bell Mobile Systems, LLC, d/b/a Cingular Wireless ("SMBS"), Sprint Communications, L.P. ("Sprint"), WorldCom, Inc. ("WorldCom"), Verizon North Inc., Verizon South Inc., and Sprint Spectrum, L.P. d/b/a Sprint PCS (collectively, the "Joint Movants") respectfully move the Administrative Law Judge ("ALJ") and the Illinois Commerce Commission ("Commission"), pursuant to Section 200.190 of the Commission's Rules, to generally continue the above-captioned matter. In support of their motion, the Joint Movants state as follows:

1. On October 23, 2002 the Commission entered an Order in Docket 02-0689 ("Order") seeking to make changes to Part 758 of Title 83 of the Illinois Administrative Code. The Order noted that Code Part 758, entitled "Program to Foster the Elimination of the Digital Divide Fund," was adopted pursuant to an Order issued in Docket 01-0825 and had become effective on July 15, 2002. The proposed changes to Part 758 referenced in the Order and the Staff Report upon which the Order was premised sought to correct what Staff perceives as an inconsistency between the statutory language in Section 13-

301.2 of the Illinois Public Utilities Act, 220 ILCS 5/13-301.2, and the language contained in Part 758. The Order included the statement that “The Commission expects that this rulemaking will proceed in such a fashion that it will be completed in time to allow the date of April 1, 2003 to be used as the new compliance date in those subsections for those carriers not already included in the definition of ‘telecommunications carrier’ in this Part.” Order, p. 2.

2. The Staff convened a workshop on November 14, 2002 to discuss the revised rule. The discussions at the workshop revealed that the April 1, 2003 date contained in the proposed revisions to the Part 758 and the Order were based on the assumption that there would be no controversy concerning the proposed changes and carriers would be able to implement the requirements of the proposed rule quickly and easily. The discussions further revealed that numerous issues that would need to be resolved before the proposed changes to Part 758 could take effect. Those issues include but are not limited to the following:

- The basis upon which the Commission can amend the current rule, which was approved by the General Assembly’s Joint Committee on Administrative Rules, when the underlying statute that the rule implements has not changed?
- On what basis does the Commission assert jurisdiction over cellular carriers, data carriers, national carriers?
- Whether the carriers that clearly and undeniably can not comply with the letter of the statute should be exempt through the rule?

- Whether customer confusion and resistance are likely to be generated by multiple solicitations from numerous carriers? If so, whether the statute allows the Commission to reconcile that in the rule and how to resolve that issue?
- Whether costs incurred by carriers are recoverable and, if so, through what mechanism?
- What effect will this rule have on the Department of Commerce and Community Affairs, if the application of this rule is expanded?

3. Based on the issues raised in the first workshop, it was apparent that the April 1, 2003 date contained in the proposed revisions to Part 758 and the Order is not realistic since the changes to the rule will not be uncontested as originally anticipated when the April 1, 2003 was proposed. Consequently, this proceeding will need to be resolved through an administrative hearing or through comments filed by the parties.

4. A status hearing in this matter was held on December 2, 2002, at which it was agreed that interested parties would provide Staff with suggested changes to its proposed revisions to Part 758. Parties submitted those proposals to Staff and a second workshop was convened on December 11, 2002. Various proposals were discussed at the December 11, 2002 workshop, including the possibility that interested parties would be willing to approach key members of the General Assembly when it reconvenes in 2003, to determine whether and/or the extent to which legislators believe that a legislative directive or amendment is deemed necessary to resolve issues concerning the appropriate scope of Part 758. It was suggested that this approach would be administratively efficient because it would conserve the resources of the parties, Staff and the Commission, in anticipation that the legislative directive or amendment would clarify the application of

the statute so that this proceeding can be dismissed, thereby avoiding unnecessary litigation.

5. Staff was asked to consider whether it would agree to hold this proceeding in abeyance so that the parties could have the opportunity to approach members of the General Assembly concerning the perceived inconsistency between the statutory language in 220 ILCS 5/13-301.2 and the language contained in Part 758. In response, Staff indicated that it will not object to a general continuance of this docket to give the carriers the ability to approach members of the General Assembly concerning this matter as long as the interested parties bring a motion for general continuance to the ALJ. As an additional condition, Staff indicated that the parties should provide monthly progress reports to Staff, in order to address Staff's concern that the general continuance not be unduly lengthy. Finally, Staff indicated that it would reserve its right to request the general continuance be terminated, and to request the ALJ to move the proceeding forward.

6. Based on the foregoing, Joint Movants respectfully request that the ALJ apprise the Commission that due to unforeseen issues related to the proposed changes to Part 758, this matter will not be completed by April 1, 2003, as contemplated by the Commission's Order and the proposed changes appended to it. In addition, the Joint Movants respectfully request that this matter be generally continued to allow interested parties to approach members of the General Assembly when it reconvenes in 2003 to determine whether and/or the extent to which legislators believe that a legislative directive or amendment is deemed necessary to resolve issues concerning perceived inconsistencies between the statutory language in 220 ILCS 5/13-301.2 and the language

contained in Part 758. In the meantime, Joint Movants will keep a designated Staff representative apprised of the status of their efforts at the General Assembly.

WHEREFORE, the Joint Movants submit that their Motion is well founded, will result in administrative efficiency, and therefore that it should be granted.

December 20, 2002

Respectfully submitted,

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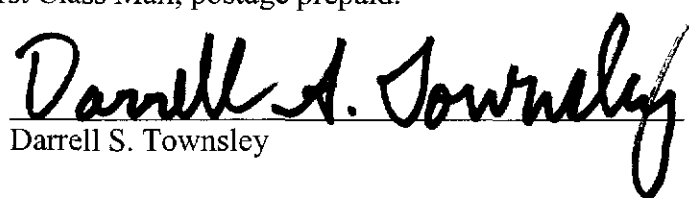
**NOTICE OF FILING**

Please take notice that on December 20, 2002, I caused to be sent by Federal Express, postage prepaid, the original Joint Motion for General Continuance in the above-captioned matter to the Chief Clerk of the Illinois Commerce Commission, Donna Caton, 527 E. Capitol, Springfield, Illinois 62701.

  
Darrell S. Townsley

**CERTIFICATE OF SERVICE**

I, Darrell S. Townsley, certify that I caused to be served from WorldCom, Inc.'s Chicago, Illinois offices a copy of the Joint Motion for General Continuance in the above-captioned docket, together with a Notice of Filing, upon all parties on the attached service list on this 20<sup>th</sup> day of December, 2002, by United States First Class Mail, postage prepaid.

  
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**Docket Number 02-0689**  
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